

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEVIN LAMAR PORTER,

Plaintiff,

v.

AMEZCUA, *et al.*,

Defendants.

Case No. 1:23-cv-01491-JLT-BAM (PC)

ORDER DIRECTING PLAINTIFF TO
PROVIDE WRITTEN NOTICE
IDENTIFYING DEFENDANTS JOHN DOE
1–5 AND JANE DOE 1–2 FOR SERVICE OF
PROCESS

NINETY (90) DAY DEADLINE

Plaintiff Kevin Lamar Porter (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

On November 1, 2024, the Court ordered that this action proceed on Plaintiff’s second amended complaint against: (1) Defendant Amezcua for retaliation in violation of the First Amendment and a related state law claim for violation of the Bane Act; (2) Defendant Amezcua for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for slamming Plaintiff on the ground; (3) Defendants Amezcua, Chao, and John Does 1–5 for excessive force in violation of the Eighth Amendment and related state law claims for battery and violation of the Bane Act for forcefully moving Plaintiff despite his complaints of severe pain; and (4) Defendants Amezcua, Chao, John Does 1–5, and Jane Does 1–2 for deliberate indifference to medical care in violation of the Eighth Amendment and a related claim for violation of the Bane Act. (ECF No. 31.) By separate order, the Court has

directed service of the complaint on Defendants Amezcua and Chao.

At this time, the Court does not find service appropriate for Defendants John Doe 1–5 and Jane Doe 1–2 because the U.S. Marshal cannot serve a Doe Defendant. Therefore, before the Court orders the U.S. Marshal to serve Defendants John Doe 1–5 and Jane Doe 1–2, Plaintiff will be required to identify them with enough information to locate the defendants for service of process. Once Plaintiff identifies Defendants John Doe 1–5 and Jane Doe 1–2 for service, he should file a motion to substitute the identities of Defendants John Doe 1–5 and Jane Doe 1–2 in the complaint. If the motion is granted, the Court will direct the U.S. Marshal to serve Defendants John Doe 1–5 and Jane Doe 1–2. However, if Plaintiff fails to identify Defendants John Doe 1–5 and Jane Doe 1–2, then any unidentified defendant will be dismissed from this action.

Accordingly, IT IS HEREBY ORDERED as follows:

1. Within **ninety (90) days** from the date of service of this order, Plaintiff SHALL file a motion to substitute the identities of Defendants John Doe 1–5 and Jane Doe 1–2 that provides the Court with enough information to locate them for service of process; and
2. **The failure to comply with this order will result in dismissal of any unidentified defendant(s) from this action, without prejudice, for failure to serve with process pursuant to Federal Rule of Civil Procedure 4(m).**

IT IS SO ORDERED.

Dated: November 4, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE